

REMARKS

Summary of Office Action

Claims 17-36, 54, 56 and 57 were pending in this application.

Claims 17-19, 22, 24-32, 35, and 54 were rejected under 35 U.S.C. § 102(e) as being anticipated by Vargas et al. U.S. Patent 6,371,964 ("Vargas"). Claims 20, 21, 23, 33, 34, and 36 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Vargas and Lazarus U.S. Patent 5,397,345 ("Lazarus"). Claims 56 and 57 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Vargas.

Summary of Applicants' Reply

Applicants have amended claims 17-24, 29, 31-36 and 54 and have added new claims 58-65 in order to more particularly define the claimed invention. No new subject matter has been added and the amendments and new claims are fully supported by the originally-filed application. (See, e.g., applicants' specification at FIGS. 3 and 27 and paragraph 85.)

The Examiner's rejections are respectfully traversed.

Applicants' Reply to the Rejection of  
Claims 17-19, 22, 24-32, 35, and 54 Under 35 U.S.C. § 102(e)

Claims 17-19, 22, 24-32, 35, and 54 were rejected under 35 U.S.C. § 102(e) as being anticipated by Vargas. Applicants respectfully traverse this rejection.

Applicants' invention, as defined by amended independent claims 17, 24 and 54, is directed to a structure configured to make a hollow anastomotic connection between a first aperture in a side wall of a graft tissue conduit that has interior and exterior surfaces and a second aperture in a side wall of a body tissue conduit that has interior and exterior surfaces. The structure includes a first

portion with first and second groups of members. The first group of members extends away from the structure and defines a distal perimeter. The first group is configured to penetrate through the exterior surface of the graft tissue conduit and the interior surface of the graft tissue conduit about the first aperture, and to engage the interior surface of the body tissue conduit about the second aperture.

Applicants respectfully submit that Vargas does not show or suggest a structure configured to make a hollow anastomotic connection between a first aperture in the side wall of a graft tissue conduit and a second aperture in the side wall of a tubular body conduit, as defined by applicants' claims 17, 24 and 54. In particular, pursuant to MPEP § 2173.05(g), "functional limitation[s] must be evaluated and considered, just like any other limitation of the claim." As previously argued, Vargas discusses the insertion of an end of graft vessel 30 through opening 34 in the target vessel 32 and does not show or suggest forming a connection between side walls of two conduits. More specifically, while Vargas describes an end-to-side connector, applicants' claims define a structure configured to make a side-to-side connection. Thus, Vargas does not anticipate applicants' claims 17, 24 and 54.

Furthermore, applicants respectfully submit that Vargas does not show or suggest a group of members that extend away from the structure and are configured to penetrate through the exterior and interior surfaces of the graft tissue conduit about the first aperture, and to engage the interior surface of the body tissue conduit about the second aperture, as defined by applicants' claims 17, 24 and 54. The Examiner alleges that the structure of the device in Vargas is capable of engaging the interior wall of a body tissue conduit if used in a similar manner as applicants' device (Office Action, page 11). However, contrary to the Examiner's assertions, although Vargas discusses that the end of the anastomosis

device can puncture through some portion of the graft vessel Vargas does not show or suggest members that can penetrate through the exterior and interior surfaces of one conduit about an aperture and that also engage the interior surface of a different conduit (Vargas, FIG. 2 and col. 7, lines 35-50). In particular, even if Vargas did show the end of the device puncturing through an aperture of the graft vessel (which it does not), nowhere does Vargas show or suggest that the end of the device that punctures through the graft vessel also engages an interior surface of a different conduit. Thus, Vargas does not show or suggest all the features of applicants' claims.

Accordingly, claims 17, 24 and 54 are patentable over the prior art of record.

Applicants' Reply to the Rejection of  
Claims 20, 21, 23, 33, 34, and 36 Under 35 U.S.C. § 103(a)

Claims 20, 21, 23, 33, 34, and 36 were rejected under 35 U.S.C. § 103(a) as being obvious from Vargas in view of Lazarus. Lazarus was cited as allegedly showing other features of applicants' claims and does not make up for the deficiencies of Vargas relative to the rejection. Accordingly, claims 18-23, 25-36, 56 and 57 which depend, directly or indirectly, from claim 17, 24 or 54 are patentable over the prior art of record.

Applicants' Reply to the Rejection of  
Claims 56 and 57 Under 35 U.S.C. § 103(a)

Claims 56 and 57 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Vargas. Claims 56 and 57 depend from patentable claim 17 or 54 and therefore also are patentable.

New Claims

Applicants have added new claims 58-65 in order to more particularly define the claimed invention. Applicants' new claims 58, 62 and 64 define a structure having two different perimeters when the structure is in a deformed configuration. Nowhere does the prior art show or suggest at least this feature of applicants' claim 58, 62 and 64. In particular, in Vargas the "inner and outer flanges 20, 22 are formed by radial expansion of the anastomosis device 10" and when the structure is collapsed, the inner and outer flanges do not extend away from the device to allow the graft vessel to be inserted through the center of device 10 (Vargas, col. 7, lines 35-40 and 50-55). Therefore, because the flanges which allegedly define a distal perimeter become present after expansion of the device, Vargas does not show or suggest a structure in a deformed configuration having two different perimeters, as required by applicants' claims.

Accordingly, claims 58, 62 and 64 and claims 59-61, which depend from claim 58, are patentable. New claims 63 and 65 depend from patentable claim 17 or 24 and therefore also are patentable.

Conclusion

The foregoing demonstrates that claims 17-36 and 54-65 are allowable. This application is therefore in condition for allowance. Reconsideration and prompt allowance are accordingly respectfully requested.

Respectfully submitted,

/Gall C. Gotfried/

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Gall C. Gotfried  
Registration No. 58,333  
Agent for Applicants  
ROPES & GRAY LLP  
Customer No. 1473